



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Stephen Michael KUESTER
Serial no. : 10/554,592
Confirmation No. :
Filed : with an effective filing date of March 26, 2004
For : HIGHCHAIRS
Group Art Unit : 3636
Examiner : Milton NELSON Jr.
Docket : COLGRA P60AUS

The Commissioner for Patents
U.S. Patent & Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

Dear Sir:

I, Stephen Michael KUESTER, a citizen of the United Kingdom and residing at 27 Broad Field Road, Yamton, Kidlington, Oxfordshire OX5 1UL, United Kingdom, hereby declare as follows:

That the subject matter claimed in U.S. Patent Application No. 10/554,592 (hereinafter the "Kuester '592") entitled HIGHCHAIRS was invented solely by me, Stephen Michael Kuester, and claims the priority date from the parent U.K. Patent Application No 0307202.2 filed March 28, 2003.

The claims in Kuester '592 are currently rejected by the Examiner under at least one of 35 U.S.C. §102 (b) and/or (e) as being anticipated by the subject matter of the below listed non-patent literature documents copies of which were filed in the U.S. Patent Office on January 19, 2006 and which were originally listed in the Information Disclosure Statement (IDS), filed in the U.S. Patent Office on October 27, 2005:

(1) web pages of JohnLewis.com listing Küster Highchairs (hereinafter "JohnLewis.com reference"); and

(2) web pages of Christmas-Guide.co.uk referencing the JohnLewis.com listing of a Küster Highchair (hereinafter "Christmas-Guide.co.uk reference").

A copy of the Applicant's IDS and copies of the John Lewis.com and Christmas-Guide references as previously filed are attached.

Each of the JohnLewis.com and the Christmas-Guide.co.uk references cited by the Examiner disclose and display "Küster Highchair" products supplied to JohnLewis.com (John Lewis Partnership) by the undersigned Declarant, Stephen Michael Kuester.

The first Küster Highchair products were only first delivered to the John Lewis Partnership in February 2004. Therefore, the Küster Highchair products shown in the cited JohnLewis.com and Christmas-Guide.co.uk references could not have been publicly available before the claimed U.K. priority date of the Kuester '592 application, namely March 28, 2003.

In addition, the Küster Highchair products were not on sale or publicly known anywhere until well after March 28, 2003. Moreover, on information and belief, the listed Stock numbers 320 11161 and 11162 which are correspondingly displayed with the Küster Highchair products at JohnLewis.com were not issued by the John Lewis Partnership for the highchair until May 24, 2003.

The John Lewis Partnership did not include the highchairs in their nursery product line until near Christmas, December 25, 2003, and so advertisement of the highchair on the JohnLewis.com web page could not have predicated the U.K. priority date of March 28, 2003.

The JohnLewis.com reference includes a copyright date of 2001-2004 listed thereon. Upon information and belief the copyright range of years 2001-2004 merely indicate that certain products and information other than the Küster Highchair products were listed on the web-site date from as early as 2001 while other products and information were listed as late as 2004.

The copyright date of 2003-2004 found on the Christmas-Guide.co.uk reference inherently places the date of publication of this reference at or near the end of the year 2003, well after the March 28, 2003 priority date of the application.

Accordingly, the priority date of March 28, 2003 predates the publication date of both of the JohnLewis.com reference and the Christmas-Guide.co.uk reference

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent(s) issuing thereon.

February 24th 2008

Date



Stephen Michael KUESTER